IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S. ANANDA REDDY

WRIT PETITION NO : 9865 of 2004

Between:

1. C.B. Sharma s/o H.S. Sharma, aged about 65 yrs, occ: Business, The Harayana Golden Transport Co. 180/3, Behind Check Post, OldBowenpally, Secunderrabad 500 011.

2. Pramod Kumar Yadav s/o Ram Singh Yadav, aged about 40 yrs, occ: Business, 6/206/2, Plot No.2,Sri Durga Estate,Jeedimetla, R.R.Dist.

..... PETITIONERS

And

The State, represented by its Public Prosecutor through the S.H.O. Bowenpally

P.S. Bowenpally, Secunderabad.

..**RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of writ of Mandamus, declaring the action of respondent police not to register a crime and took up investigation immediately with regard to the petitioners' complaint dated 12-5-2004 and take action against the accused is arbitrary, illegal and consequently direct the police shall register a crime and protect the law and order from evil force, violence and cause problems to the petitioner's property of 400 sq. yards, situated in Plot No.124 and 125, 5-62/99-part in S.No. 87/part, old Bowenpally (near to the Gangaputra sangam) Kukatpally Municipality, Balanagar mandal, Rangareddy District, made attempts illegally by force with deadly weapons like axes, iron roads, sticks attacked and threatening the petitioner No.2 and his men investigate and punish the accused and pass such other order or orders.

For the Petitioner: MR. PRAKASH CHAKRAVARTHY, Advocate

For the Respondent No.: SPL GP FOR HOME

The Court at the admission stage made the Following :

ORAL ORDER

This Writ Petition is filed by the petitioners aggrieved by the action of the respondent in not taking up the investigation with reference to the complaint dated: 12-05-2004 in respect of a dispute of the property of 400 sq. yards, situated in Plot Nos. 124 and 125, bearing No. 5-62/99-part in Survey No. 87/part, Old Bowenpally (Near to the Gangaputra Sangam) Kukatpally Municipality, Balanagar mandal, Rangareddy District

2. According to the petitioners, the 1st petitioner purchased from the 2nd petitioner an extent of 400 sq. yards in two plots bearing Nos. 124 and 125 of 200 sq. yards each under an agreement of sale. It is also stated that the petitioners paid the sale consideration and took possession. It is also stated that the 2nd petitioner filed O.S.No. 1058/2001 on the file of the Prl. Junior Civil Judge, East & South, Rangareddy District against Sangini Narasimha and Laxman who tried to encroach upon the land and the said suit was decreed on 15-11-2002. In spite of the said decree existing in favour of the petitioner's vendor, the neighbours to the petitioners land are interfering and are not allowing the petitioners to proceed with the construction of the house. Therefore, the 1st petitioner approached the respondent-police and filed a complaint dated: 12-5-2004 and sought for their assistance to carry on the construction of the compound wall but as the respondent did not take any action the petitioners have come up with the present writ petition.

3. A counter has been filed on behalf of the respondent disputing and denying the allegations. In the counter it is stated that the 2nd petitioner did not approach the respondent police with reference to the alleged incident that took place on 9th, 10th and 11th of May,2004. It is only the 1st petitioner who made a complaint on 12-5-2004 seeking security for taking up construction in the land in question. On receipt of the same, an entry was made in the General Diary of the respondent police station. Further, it is stated that the said complaint did not disclose any commission of offence against any person. Further, as the matter relates to civil dispute and there was no order passed by the competent court directing the respondent to provide any

protection, no action was taken by the respondent.

4. Heard the learned counsel for the petitioners and the learned Government Pleader.

5. The grievance of the petitioners is that in spite of the complaint made by the 1st respondent to provide protection for carrying on construction activity in the property purchased by the 1st petitioner from the 2nd petitioner, the respondent did not take any action. Therefore, the present writ petition. According to the respondent, the complaint does not disclose any case to be registered and enquired into as well as to give any protection as it is in the nature of civil dispute as the dispute relates to the property. Further, there is no order of the Court to give any protection to the petitioners.

6. In the light of the above rival contentions, there is no merit in the present writ petition warranting interference. However, if the petitioners are aggrieved against the neighbours interference, it is always open to the petitioners to approach the Civil Court and obtain necessary injunction orders against them.

7. The writ petition is accordingly disposed of with the above directions and observations.

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(S. ANANDA REDDY,J)

Dated: 5-07-2004

VP

To

1. The Public Prosecutor,through theS.H.O.Bowenpally P.S.

Bowenpally, Secunderabad.

2. 2 CCs to Govt.Pleader for Home, High Court of A.P. Hyderabad (O.U.T)

3. 2 CDs